



Agenda Date: 05/15/02
Agenda Item: 3G

STATE OF NEW JERSEY

Board of Public Utilities
Office of Cable Television
*Two Gateway Center
Newark, NJ 07102*

CABLE TELEVISION

ORDER ADOPTING INITIAL DECISION

IN THE MATTER OF THE APPLICATION)
OF COMCAST CABLEVISION OF LONG)
BEACH ISLAND, LLC (LONG BEACH)
ISLAND SYSTEM) RATE CHANGE UNDER)
FCC FORM 1240 TO SET ITS MAXIMUM)
PERMITTED RATES FOR REGULATED)
CABLE SERVICES)

BPU DOCKET NO. CR01030149
OAL DOCKET NO. CTV 02288-01S

IN THE MATTER OF THE APPLICATION)
OF COMCAST CABLEVISION OF NEW)
NEW JERSEY, LLC (TOMS RIVER -)
CEDAR BONNET ISLAND SYSTEM))
RATE CHANGE UNDER FCC FORM 1240)
TO SET ITS MAXIMUM PERMITTED)
RATES FOR REGULATED CABLE)
SERVICES)

BPU DOCKET NO. CR01050285
OAL DOCKET NO. CTV 4068-01

IN THE MATTER OF CERTAIN COMCAST)
CABLE COMMUNICATIONS, INC.)
SUBSIDIARIES (AS SET FORTH BELOW))
RATE CHANGE UNDER AGGREGATE)
FCC FORM 1205 DETERMINING)
REGULATED EQUIPMENT AND)
INSTALLATION COSTS)

BPU DOCKET NO. CR01030150
OAL DOCKET NO. CTV 02289-01S

IN THE MATTER OF COMCAST)
CABLEVISION OF LONG BEACH ISLAND)
REQUEST FOR WAIVER, NUNC PRO)
TUNC, OF THIRTY (30) DAY NOTICE)
PERIOD PURSUANT TO N.J.A.C.)
14:18-3.16(b).)

BPU DOCKET NO. CO01060378

(SERVICE LIST ATTACHED)

BY THE BOARD:

On March 1, 2001 and May 1, 2001, Comcast Cablevision of Long Beach Island, LLC ("Comcast/LBI") and Comcast Cablevision of New Jersey, LLC ("Comcast/Toms River) and Comcast Cable Communications, Inc. Subsidiaries¹ ("Comcast Consolidated systems") (collectively "Comcast") filed FCC Form 1240s and an aggregate Form 1205 with the Board of Public Utilities ("Board") for the purpose of adjusting maximum permitted rates for basic cable service and regulated equipment and installation costs.

The Board is the local franchising authority in New Jersey and is certified to regulate basic service rates and associated equipment and installation charges.

FCC Form 1205 is the form used by cable operators to update their regulated rates for equipment, such as converters and remotes, and customer installations. Under the revised benchmark rules which apply to operators beginning May 15, 1994, Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking, MM Docket No. 92-266, FCC 94-38, ("Second Order on Reconsideration"), cable operators are required to justify their rates for cable installations and the lease of equipment. Cable operators must file a new Form 1205 with the franchising authority on an annual basis to determine whether the rates established by the operator are reasonable.

Under the FCC's Form 1205 methodology, the charges established for equipment leases and customer installations are based on actual cost. Equipment rates are derived from the total capital and maintenance costs per unit of equipment, and installation rates are derived from a calculation of an hourly service charge ("HSC") and an application of that charge to different types of installations.

FCC Form 1210 is the form used by cable operators to update their rates for regulated basic and cable programming services ("CPS") tiers pursuant to the FCC's revised benchmark rules, Second Order on Reconsideration. In the Order, the FCC also established a "going-forward" mechanism to govern future rate adjustments resulting from channel changes, external costs and inflation adjustments. Under the going-forward methodology, cable operators are permitted to adjust their regulated rates for basic and CPS tiers on a quarterly basis using FCC Form 1210.

To ease the administrative burdens associated with the filing of quarterly filing of FCC 1210 forms, on September 15, 1995, the FCC developed Form 1240 to be used as an optional annual rate adjustment methodology. While use of Form 1210 involves a review of past costs, the Form 1240 approach includes a projection of costs for the coming year with reconciliation at the end of the year to account for over and under estimates when compared to actual costs for the same period. This is called the true-up process.

¹ Comcast Cable Communications, Inc. subsidiaries include Comcast Cablevision of Avalon, LLC, Comcast Cablevision of Burlington County, Inc., Comcast Cablevision of Central New Jersey, Inc., Comcast Cablevision of Gloucester County, Inc., Comcast Cablevision of Jersey City, Inc., Comcast Cablevision of the Meadowlands, Inc., Comcast Cablevision of Mercer County, Inc., Comcast Cablevision of Monmouth County, Inc., Comcast Cablevision of Ocean County, Inc., Comcast Cablevision of New Jersey, Inc., Comcast Cablevision of Northwest New Jersey, Inc., and Comcast Cablevision of the Plainfields, Inc.

Cable operators who choose the Form 1240 methodology can adjust their rates once per year to reflect quantified changes in external costs, inflation and the number of regulated channels that are projected for the 12 months following the rate change.

The Comcast/LBI system serves approximately 12,030 subscribers in Ocean County. The Comcast/Toms River-Cedar Bonnet Island ("Cedar Bonnet") system serves approximately 57 subscribers in Ocean County. The Avalon system serves approximately 10,759 subscribers in Cape May County. The Burlington system serves approximately 41,704 subscribers in Burlington County. The Central New Jersey system serves approximately 65,440 subscribers in Middlesex, Mercer and Monmouth Counties. The Gloucester system serves approximately 39,128 subscribers in Gloucester County. The Jersey City system serves approximately 45,033 subscribers in Hudson County. The Meadowlands system serves approximately 33,303 subscribers in Bergen and Hudson Counties. The Mercer system serves approximately 43,966 subscribers in Mercer County. The New Jersey system serves approximately 276,695 subscribers in Essex, Hudson, Middlesex, and Union Counties. The Northwest system serves approximately 26,492 subscribers in Warren, Hunterdon and Morris Counties. The Ocean system serves approximately 40,249 subscribers in Ocean County. The Plainfield system serves approximately 22,351 subscribers in Somerset Union and Middlesex Counties.

Both Comcast/LBI and Cedar Bonnet systems offer a single tier service, combining basic and expanded (Cable Programming Services or "CPS") service into one tier.

On April 5, 2001, the above filings were transmitted to the Office of Administrative Law ("OAL") for determination and initial disposition.

On May 1, 2001, Comcast filed a revised aggregate Form 1205 correcting or revising certain figures contained within that filing. These rates are listed on Exhibit D of the Stipulation of Settlement.

On June 12, 2001, a pre-hearing conference was held and attended by Comcast, the Division of Ratepayer Advocate ("Ratepayer") and the Board's Staff (collectively, the "Parties"). The preliminary hearings for these filings were set for October 22nd, 23rd, and 24th, 2001. Thereafter, Administrative Law Judge ("ALJ") Kathryn A Clark adjourned the hearings scheduled for October 22nd, 23rd, and 24th, 2001.

On December 21, 2001, after extensive discovery and a series of settlement negotiations, the Parties reached an agreement and executed a Stipulation of Settlement ("Stipulation"), memorializing the agreement.

On January 10, 2002, ALJ Kathryn A. Clark filed her Initial Decision with the Board, which recommended that the Stipulation be approved. ALJ Clark found the Stipulation to be voluntary, consistent with the law, and fully dispositive of all issues in controversy. The ALJ therefore concluded that the Stipulation met the requirements of N.J.A.C.1: 1-19.1.

Two extensions of the forty-five (45) day statutory period for review and rendering of a Final Decision by the Board on the Initial Decision were requested by the Board to allow sufficient time to resolve issues between the parties. On February 20 and April 12, 2002, respectively, the Office of Administrative Law granted the requests. During the period of the first extension, Comcast agreed to conform to the terms of the Stipulation regarding the channel line-up of

Comcast/LBI, notwithstanding its earlier representation not to do so. During the period of the second extension, the parties clarified their agreement and corrected certain typographical errors contained within the body of the Stipulation. With that, all outstanding issues have been resolved.

Under the terms of the Stipulation, Comcast will revise its systems' FCC Form 1240s MPR, as follows:

- The Comcast/LBI system will revise its MPR from \$33.08 to \$32.62, a decrease of \$0.46 per month, exclusive of regulatory and franchise fees.
- The Cedar Bonnet system will revise its MPR from \$30.59 to \$30.09, a decrease of \$0.50 per month, exclusive of regulatory and franchise fees.
- Comcast/LBI and Comcast/Toms River will modify their single tier of service by establishing and introducing a separate limited basic tier of service and a separate CPS tier of service no later than March 1, 2002. The limited basic and CPS tiers to be implemented will initially consist of the current limited basic and CPS tier channel line ups that exist with respect to substantially all of the remainder of the Comcast/Toms River's system (that is, in all areas other than Cedar Bonnet Island). At present, that limited basic tier of service consists of 30² channels and the rate for same is \$9.74, and that CPS tier of service consists of 45 channels and the rate for same will be \$22.88 (with respect to Comcast/LBI) and \$20.35 (with respect to Cedar Bonnet), exclusive of franchise, State Assessment and FCC regulatory fees. Combined, these rates will initially remain the aforementioned revised MPR's of \$32.62 in the Comcast/LBI system and \$30.09 in the Cedar Bonnet system.

On March 18, 2002, March 21, 2002, and March 28, 2002 Comcast filed letters with the Board acknowledging certain typographical errors on page 3, paragraph 3 of the Stipulation. The language in question incorrectly implied that the effective date for the Form 1240 and 1205 filed on March 1, 2002 was June 1, 2002 for both filings, when that date only applies to the Form 1240 filing. The language also stated, with respect to the Avalon Form 1205 rates set forth on Exhibit "B" of the Stipulation, that Comcast would freeze said rates until June 1, 2002. Comcast's letters indicate that the correct date the parties agreed to was June 1, 2003, and that the date on both the Stipulation and its Exhibit "B" should reflect an effective date for current rates through May 31, 2003.

Paragraph 3 page 3 of the Stipulation, as corrected, reads as follows:

"3. Comcast/Avalon will postpone its annual Form 1240 and form 1205 filings from November 1, 2001 until March 1, 2002, thus making the rates set forth in BPU Docket Nos.

² However, Comcast filed letters with the Board on February 5, 2002, February 11, 2002, March 18, 2002 and April 30, 2002 acknowledging inadvertent changes to this channel line-up commitment. The February 5, 2002 letter stated that two (2) of the limited basic tier channels would be excluded from the March 1, 2002 retiering. The February 11, 2002 letter updated that, indicating they could restore two channels, albeit not the same channels. In the March 18, 2002 letter, Comcast stated it had found a mechanism to restore Comcast/LBI and Comcast/Cedar Bonnet to the originally stipulated channel line-ups. Thereafter, by letter dated April 30, 2002, they stated the restored line-up would happen around July 1, 2002. Finally, Comcast/LBI and Comcast/Cedar Bonnet's Form 1240s for the projected period starting August 1, 2002, will attest to this by reflecting those July 1, 2002 changes.

CR02030134 and CR01030150 effective as of June 1, 2002. Comcast/Avalon will freeze all existing Form 1205 rates as set forth on Exhibit "B" annexed hereto until June 1, 2003, when the rates to be set forth in the new aggregate Form 1205 filing for the Comcast Subsidiaries to be made on March 1, 2002 will become effective."

Comcast's March 21, 2002 letter further indicates that the docket numbers for the appropriate Forms 1240 and 1205 that bear an effective date June 1, 2002 should be inserted into the first sentence of the paragraph. That letter, further, predicated Comcast's agreement with the Stipulation corrections on an agreement by the Division of the Ratepayer Advocate ("RPA") with Comcast on the jurisdictional issues with respect to the CPST tier of service. Comcast's March 28, 2002, letter restates the Stipulation paragraph at issue, in accordance with the parties understanding, replacing its earlier letters on the issue, and references separate conversations between its counsel and DRA and Staff concerning jurisdiction over CPST rates in Comcast's Cedar Bonnet Island and Long Beach Island systems.

Thereafter, by letter dated April 3, 2002, the RPA filed a letter with the Board acknowledging its agreement that the certain typographical errors on page 3, paragraph 3 of the Stipulation corrected by Comcast's March 28, 2002 letter accurately reflects the intention of the parties thereto. RPA's letter, however, while acknowledging that the CPST tier of service is unregulated, notes its belief that the jurisdictional issue is separate and apart from the matter of correcting the Stipulation. RPA, further, maintains that its acknowledgement regarding the jurisdictional issue does not serve as a condition to its acknowledgements regarding changes to the Stipulation.

With the above noted acknowledgements, all outstanding issues of the parties relating to the Stipulation of Settlement have been resolved.

Under the terms of the Stipulation, Comcast will revise its systems' FCC Form 1205 MPRs as follows:

- All Comcast/Avalon system equipment and installation charges will remain frozen at the prior Board approved rates at least until May 31, 2003.
- The Comcast/LBI system will revise the MPR for monthly lease charges for addressable or digital converters from \$3.85 to \$3.25, a decrease of \$.60.
- The Comcast/LBI system will revise the MPR for the monthly lease charge for digital remotes from \$.35 to \$.15, a decrease of \$.20.
- The Comcast/LBI system will revise the MPR for the Primary Installation / New Connections / Unwired from \$40.95 to \$36.22, a decrease of \$4.73.
- The Comcast/LBI system will revise the MPR for the Video Game or Parental Control Device Same Trip from \$5.95 to \$0.00, a decrease of \$5.95.
- The Comcast/LBI system will revise the MPR for the A/B Switch Installation Same Trip from \$5.95 to \$0.00, a decrease of \$5.95.
- The Comcast/LBI system will revise the MPR for the Unnecessary Trip Charge from \$14.95 to \$6.25, a decrease of \$8.70.

- The Comcast/LBI system will revise the MPR for the Reconnect and Relocate, Same Trip from \$40.95 to \$0.00, a decrease of \$40.95.
- On December 1, 2001 the Comcast/LBI system will revise all charges that were increased on or about June 8, 2001, where the increase from the prior approved rates was above 15%, as set forth on Exhibit C of the Stipulation. An extract of those reductions from Exhibit C is listed below.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the monthly lease charge for standard remotes from \$.15 to \$0.00, a decrease of \$.15.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the non-standard installation from \$31.27 per hour to \$27.00 per hour, a decrease of \$4.27.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the VCR installation (same trip) from \$14.33 to \$5.95, a decrease of \$8.38.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the VCR installation (separate trip) from \$20.59 to \$12.95, a decrease of \$7.64.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the video game or parental control device installation (separate trip) from \$20.59 to \$12.95, a decrease of \$7.64.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the A/B switch installation (separate trip) from \$20.59 to \$12.95, a decrease of \$7.64.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the remote control unit installation (separate trip) from \$6.25 to \$0.00, a decrease of \$6.25.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the converter installation (separate trip) from \$20.59 to \$14.95, a decrease of \$5.64.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the relocation of drop (exterior only) from \$20.59 to \$14.95, a decrease of \$5.64.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the Hourly Service Charge (per hour) from \$31.27 to \$27.00, a decrease of \$4.27.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the fishing of walls, pre-wiring, or post wiring (per hour) from \$31.27 to \$27.00, a decrease of \$4.27.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the deletion of optional non-addressable services (separate trip) from \$15.63 to \$8.95, a decrease of \$6.68.

- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the in person collection of past due balances from \$19.77 to \$14.95, a decrease of \$4.82.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the service call (non-cable related problem) from \$6.25 + \$31.27 per hour to a flat charge of \$14.95.
- As of December 1, 2001, the Comcast/LBI system will revise the MPR for the rerunning of an exterior drop from a flat rate of \$36.22 to \$27.00 per hour.
- Also under the Stipulation, the Comcast Consolidated systems will revise the MPR for all installation charges resulting in an across the board decrease of slightly over 2% from prior Board rates.
- The Comcast Consolidated systems will revise the MPR for Hourly Service Charge ("HSC") from \$31.95 to \$31.27, a decrease of \$.68.
- The Comcast Consolidated systems will revise the MPR of the monthly lease charges for its Non-Addressable Converters from \$.40 to \$.33, a decrease of \$.07.

The Stipulation incorrectly reports Comcast/LBI's Form 1240 projected period start date as June 1, 2001. The correct start date is June 8, 2001. Comcast, by letter dated January 31, 2002, acknowledges this error and recognizes June 8, 2001 as the correct date.

For the Comcast/LBI system, refunds of the higher equipment and installation rates charged after November 30, 2001, will be provided to subscribers with interest, using the IRS rates for over and under payments utilized by the FCC, compounded daily through the date of distribution, dating back to December 1, 2001, for any regulated equipment and installation rates paid in excess of the corresponding Settlement Rates set forth for such system in Exhibit C of the Stipulation. The principal and interest will continue to accrue for any refunds made for charges after November 30, 2001.

Comcast notified its customers of rate changes by way of bill inserts and newspaper announcements informing them of their opportunity to submit written comments to Celeste M. Fasone, Director, Office of Cable Television for a period of thirty (30) days in various newspapers commencing on or about October 12, through November 22, 2001. As of December 22, 2001, no comments were received.

Comcast, under Docket Number CO01060378, by letter dated June 29, 2001, requested a waiver, nunc pro tunc, of the thirty (30) day notice requirement, for providing notice of rate changes to subscribers and affected municipalities, pursuant to N.J.A.C. 14:18-3.16(b), as permitted under FCC rate regulatory policy.

The Board has reviewed the Stipulation and Initial Decision and FINDS them to be reasonable, in the public interest and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Stipulation of Settlement and Initial Decision (attached hereto) as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

In addition, the Board APPROVES the waiver, nunc pro tunc, of the thirty (30) day notice requirement pursuant to N.J.A.C. 14:18-3.16(b).

The Board also HEREBY ORDERS that Comcast shall submit a certified refund liability statement to the Office within fifteen (15) days of the date of this Order which shall at a minimum include, but not be limited to, the following items for the Comcast/LBI system: (a) the number of installations by type performed subsequent to November 30, 2001; (b) the amount charged for such installations that exceeded the settlement rates specified in Exhibit C of the Stipulation; (c) the number of subscribers of record as of the effective date of the implementation of the refund who had been charged an installation rate in excess of the settlement rates, as specified in Exhibit C of the Stipulation, subsequent to November 30, 2001; (d) a calculation of interest using the applicable FCC published rate of interest from the date of the charge through the date of refund; (e) the total refund amount both pre and post interest; and (f) the per-subscriber refund amount.

The Board, also HEREBY ORDERS that Comcast shall issue any refunds due its subscribers pursuant to the Stipulation within sixty (60) days of the date of this Order, or thirty (30) days of approval of its refund liability statement by the Office, whichever is later, and that Comcast shall inform subscribers of the reason for the refunds. Said refunds shall be denominated "BPU Refund" on subscribers' bills.

Comcast, within ten (10) days of the payment of the refunds to subscribers, is HEREBY DIRECTED to notify the Board, in writing, of the date(s) said refunds were paid and the amounts refunded. The Board FURTHER ORDERS that Comcast, within ten (10) days of effectuating the entire refund to its subscribers, certify in writing to the Office of Cable Television that the refunds have been completed.

The Board FURTHER ORDERS that should these cable systems, or any part thereof, merge and/or migrate to another system, be upgraded and/or rebuilt, its ownership or control be otherwise sold or transferred to another entity, the basic service tier rate that will be eliminated or superseded as a result of the merger, migration, upgrade, rebuild, sale or transfer must be "trued-up" [47 C.F.R. § 76.922 (e) (3)]. The final true-up for the affected systems, or any parts thereof, should be calculated on FCC Form 1240 and begin where the last true-up period ended on its prior FCC Form 1240. This true-up calculation should be filed with the Board when all the affected subscribers are being charged the rate resulting from the merger, migration, upgrade, rebuild, sale or transfer and may be filed in conjunction with the annual rate adjustment cycle (Form 1240) established as a result of said merger, migration, upgrade, rebuild, sale or transfer.

Should these cable systems, or any part thereof, be subsequently deregulated as a result of a finding by the Board, the FCC or other party of competent jurisdiction, that the system, or any part thereof, is subject to effective competition, the last basic service rate established as a result of a prior FCC Form 1240 or such subsequent rate calculation method as may be heretofore adopted by the Board, the FCC or other party of competent jurisdiction, prior to the deregulation of any rate that is now or may in the future be subject to the Board's jurisdiction, must be trued-up for the period of time that the affected rates were subject to regulation by the Board.

The Order is subject to the following condition:

1) On or before March 1, 2002, Comcast shall file with the Office of Cable Television, a certification stating that a separate limited basic and separate CPS tier of service is available to subscribers in the Comcast/LBI and Cedar Bonnet systems.

DATED: May 16, 2002

BOARD OF PUBLIC UTILITIES
BY:

(signed)

JEANNE M. FOX
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J. MURPHY
COMMISSIONER

(signed)

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO
SECRETARY

**IN THE MATTER OF
THE APPLICATION OF COMCAST CABLEVISION OF LONG BEACH ISLAND, LLC,
COMCAST CABLEVISION OF TOMS RIVER, LLC, COMCAST CABLE COMMUNICATIONS,
INC. SUBSIDIARIES RATE CHANGE UNDER FCC FORM 1240 AND AGGREGATE FCC
FORM 1205 TO SET ITS MAXIMUM PERMITTED RATES FOR REGULATED CABLE
SERVICES AND EQUIPMENT AND INSTALLATION CHARGES
DOC. NOS, CR01030149, CR01050285, CR01030150 and CO01060378**

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